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NOTE VERBALE DATED 30 JULY 1991 FROM THE PERMANENT REPRESENTATIVE OF AUSTRALIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Australia to the United Nations presents his compliments to the Secretary-General of the United Nations and in reference to the Secretary-General's note of 3 July 1991, in which the Secretary-General drew attention to Security Council resolution 700 (1991) and specifically to paragraph 4 of this resolution, has the honour to inform the Secretary-General as follows.

Australia has complied with its obligations in relation to paragraphs 24, 25 and 27 of resolution 687 (1991), to which paragraphs 2, 3, 4 and 5 of resolution 700 (1991) refer, both through the enactment of specific regulations in relation to exports to Iraq and in the administration of existing Australian legislation and regulations relating to the export from Australia of defence and defence-related goods.

Australia established its sanctions regime against Iraq in accordance with Security Council resolution 661 (1990) through the promulgation of regulations that prohibit the export of goods to Iraq, where such export would violate Australia's international obligations, including obligations incurred under Security Council resolutions. Those regulations remain in effect. Australia advised the Secretary-General of these measures on 30 October 1990 and the note verbale was circulated as document S/AC.25/1990/24 on 5 November 1990.

The Australian Government maintains general controls on the export from Australia of defence and defence-related goods through provisions of the Customs Act 1901 and Associated Customs (Prohibited Exports) Regulations. These controls are administered by the Minister for Defence, and goods requiring the Minister's permission are specified in schedule 13 of the Customs (Prohibited Exports) Regulations. Australian Government policy, as specified in government guidelines published in 1989, is to prohibit the export of defence and defence-related goods "to countries against which the United Nations Security Council has imposed a mandatory arms embargo, or which are employing armed forces in a manner contrary to a resolution of the United

Nations Security Council, or contrary to the provisions on international instruments to which Australia is a party, and to countries with policies or interests that are inimical to the strategic interests of Australia its friends and allies".

The Australian Government also maintains specific controls over the export to all destinations of nuclear and related goods, toxicological agents of a biological, chemical or radioactive nature designed or adapted for warfare, and associated production and dissemination equipment, and chemical weapons precursors through the Customs Act and the Customs (Prohibited Exports) Regulations. Dual use technology is covered by the same Act and Regulations. These controls would prevent the export of the foregoing items from Australia to Iraq.

The Australian Government is opposed to private sales of defence and defence-related goods and will only approve such sales if the purchasers are acting on behalf of, or with the approval of a recognized Government and for the end-use by that Government. In the case of the controlled goods described in the two preceding paragraphs the Australian Government requires that exporters produce an end-use and non-transfer certificate or equivalent document on which the end-user Government provides an undertaking that it will use the goods for the purposes indicated and will not transfer the goods without the written permission of the Australian Minister for Defence or the Minister's delegate. The Customs Act provides for the imposition of significant financial penalties, and forfeiture of the prohibited goods and of the conveyance used for the unlawful exports.